

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6852**

**BILL NUMBER:** HB 1255

**NOTE PREPARED:** Jan 5, 2013

**BILL AMENDED:**

**SUBJECT:** Real Estate Matters.

**FIRST AUTHOR:** Rep. Truitt

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that a brokerage is not liable for failure to disclose a defect or adverse condition based on knowledge of a broker affiliated with the brokerage.

It removes the requirement that an offer in a sale of residential real estate is not enforceable against the buyer until the owner and the buyer have signed the disclosure form.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:**

**Explanation of State Revenues:** The overall impact of the bill is indeterminate based on the elimination or basis for civil actions within the proposed amendments to the bill.

The bill disallows a cause of action against a brokerage for failing to disclose defects or adverse conditions in property previously handled by a licensee affiliated with the brokerage. However, the bill also may allow cause for additional civil actions if an accepted offer from a buyer is enforceable prior to the signing of the disclosure form. There are no data available to suggest how many fewer or more cases may occur as a result of these changes in the bill.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment Fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also be required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

**State Agencies Affected:**

**Local Agencies Affected:** Trial courts, city and town courts.

**Information Sources:**

**Fiscal Analyst:** Karen Firestone, 317-234-2106.